

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

NATASHA WHITTINGTON,

Plaintiff,

v.

**NANCY A. BERRYHILL,
Acting Commissioner of
Social Security Administration,**

Defendant.

)
)
)
)
)
)
)
)
)
)
)

Case No. 16-CV-14-JHP-SPS

**ORDER AFFIRMING AND ADOPTING THE REPORT AND
RECOMMENDATION OF THE UNITED STATES
MAGISTRATE JUDGE**

On July 27, 2017, the United States Magistrate Judge entered a Report and Recommendation in regard to Plaintiff's request for an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). The Magistrate Judge recommended that Plaintiff's Motion (Dkt. 21) be granted. No party has filed any objection to the Magistrate Judge's Report and Recommendation within the time prescribed by law. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b).

This Court finds that the Report and Recommendation of the Magistrate Judge is supported by the record. Therefore, upon full consideration of the entire record and the issues presented herein, the Court finds and orders that the Report and Recommendation entered by the United States Magistrate Judge on July 27, 2017, be **AFFIRMED** and **ADOPTED** by this Court as its Findings and Order. It is **ORDERED** that Plaintiff's Motion for Attorney's Fees Under the Equal Access to Justice Act (Dkt. 21) is **GRANTED**. Accordingly, the Government is ordered to pay Plaintiff's attorney's fees in the amount of \$6,220.75.

It is further **ORDERED** that the award in this case is to be made payable to Plaintiff, not Plaintiff's counsel, or jointly to Plaintiff and Plaintiff's counsel, as 28 U.S.C. § 2412(a)(1) and (d)(1)(A) provide for an award of costs and attorney's fees to a "prevailing party." Further, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. §406(b)(1), he shall refund the smaller award to the plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 21st day of December, 2017.



James H. Payne
United States District Judge
Eastern District of Oklahoma